

STATE OF VERMONT

SUPERIOR COURT  
Windsor Unit

CIVIL DIVISION  
Docket No. \_\_\_\_\_ Wrcv

THE STATE OF VERMONT OFFICE OF )  
THE ATTORNEY GENERAL, )  
Plaintiff )  
 )  
v. )  
 )  
EMERGE FAMILY ADVOCATES, INC., )  
JOSEPH VERDINE, BOARD PRESIDENT, )  
MURIEL FARRINGTON, BOARD )  
SECRETARY, THOMAS TRUNZO, BOARD )  
MEMBER, JOHANNA JASPERSOHN, )  
BOARD MEMBER, and RAYMONA RUSSELL, )  
EXECUTIVE DIRECTOR )  
Defendants. )

**ATTORNEY GENERAL'S MOTION FOR A TEMPORARY RESTRAINING ORDER**  
**AND/OR PRELIMINARY INJUNCTION TO REMOVE THE BOARD**  
**AND TO APPOINT A SPECIAL TRUSTEE and**  
**INCORPORATED MEMORANDUM OF LAW**

The Vermont Attorney General hereby moves this Court to enter a temporary restraining order and/or a preliminary injunction against Emerge Family Advocates, Inc. ("Emerge") and the other named defendants based on the facts set out in the incorporated Memorandum of Law and supported by the attached affidavit. This Motion is related to the Attorney General's Petition to Remove the Board and Appointment of A Special Trustee ("Petition"). The Attorney General respectfully requests that the temporary restraining order and/or preliminary injunction contain the following terms:

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1. Issue a temporary restraining order and/or a preliminary injunction pursuant to Rule 65 of the Vermont Rules of Civil Procedure removing Defendant board members from the Emerge Board of Directors, as being in the best interests of Emerge.
2. Appoint Suzanne Lovell as a special trustee with all the necessary powers to: (1) preserve Emerge's charitable assets; (2) review Emerge finances and the likelihood of Emerge being able to continue its mission; and (3) recommend to the Court and Attorney General whether and how Emerge may continue operations, including, but not limited to, recruiting a new board of directors, instituting appropriate financial procedures and oversight, and filing all appropriate reports and forms with the IRS and the States of Vermont and New Hampshire. The special trustee's fees are to be paid from Emerge funds.
3. Order that the Executive Director of Emerge, Defendant Raymona Russell: (a) provide access to all information regarding Emerge and its clients requested by the special trustee, including, but not limited to: all financial records; board minutes; bylaws and policies; grant applications; grant reports filed with Vermont Center for Crime Victims Services, Vermont Department of Children and Families, New Hampshire Department of Justice Office on Violence Against Women, and reports filed with any other grantor, together with the schedule book and other supporting documentation for those reports; and (b) be prohibited from taking any action on behalf of Emerge – including providing any services, expending any assets or incurring any debts – without authorization from the Court, the special trustee, or a properly constituted board of directors.

4. Appoint Sara Kobylenski, Executive Director of Upper Valley Haven, 713 Hartford Avenue, White River Junction, Vermont 05001, through coordination with a group of local nonprofit organizations, to create an emergency interim resource for the provision of essential court-ordered supervised visitation and supervised exchanges of children between parents until Emerge can resume providing such services or an alternative permanent program can be put in place at another nonprofit.
5. After appointment of a special trustee, order the temporary closing of Emerge, only as is necessary to accomplish the above.
6. Schedule a status conference within 30 days to hear the findings and recommendations of the special trustee, and to determine what further action from the Court is warranted.
7. Any additional relief as the Court deems just and proper.

#### **MEMORANDUM OF LAW**

The Attorney General seeks a preliminary injunction imposing conditions upon Emerge, its directors and its Executive Director, based on an investigation into Emerge's financial and governance operations, in order to restrain future violations of the Vermont nonprofit and charitable trust law. The Attorney General additionally seeks the immediate appointment of a special trustee to preserve Emerge's charitable assets, review its finances, assess the likelihood of Emerge being able to continue its mission, and recommend to the Court and Attorney General whether and how Emerge may continue operations.

In the associated Petition, the Attorney General alleges that Defendants Verdine, Farrington, Trunzo and Jaspersohn, through various actions and omissions, have repeatedly

violated their statutory duties to Emerge, namely their duty to act in good faith, their duty of care, and their duty of loyalty. *See* 11B V.S.A. § 8.30(a). These defendants have likewise engaged in a gross abuse of authority and/or discretion. *See* 11B V.S.A. § 8.10(a)(1)(A).

Beyond general regulation of the nonprofit sector, as part of its *parens patriae* power, the Attorney General's Office exercises common law and statutory powers in connection with the supervision, administration and enforcement of charitable trusts, 14A V.S.A. §§ 110, 405, 413, charitable solicitations, 9 V.S.A. §§ 2471 – 2479, and charitable sales promotions, 9 V.S.A. §§ 2481a – 2481d. The Attorney General also has the duty to see that the rights of the public in a charitable trust are protected and properly executed. *See Wilbur v. Univ. of Vermont*, 129 Vt. 33, 44 (1970); *Pres. & Fellows of Middlebury Coll. v. Cent. Power Corp. of Vt.*, 101 Vt. 325, 343 (1928); *see also* 14A V.S.A. § 405(c).

This memorandum briefly describes the facts that the State intends to prove at the hearing on this motion, discusses the applicable standard for granting preliminary relief and the legal principles pertinent to nonprofit public benefit corporations and charitable trusts, and applies them to the facts alleged here. The facts and legal standards clearly demonstrate that a temporary restraining order and/or preliminary injunction is warranted in this case.

### I. FACTS

Emerge Family Advocates is a nonprofit corporation registered with the Vermont Secretary of State, recognized by the Internal Revenue Service as a 501(c)(3) organization. It is a public benefit corporation as defined by statute, 11B V.S.A. § 17.05, and under its bylaws is governed by a board of directors. Emerge operates several supervised visitation centers in Vermont and New Hampshire and is funded almost exclusively through grants from the New Hampshire Department of Justice and the Vermont Center for Crime Victim Services.

Defendants Joseph Verdine, Muriel Farrington, Thomas Trunzo and Johanna Jaspersohn constitute Emerge's current Board of Directors ("the Board"). Defendant Verdine has served on the board since 1997 and is the current President, Defendant Farrington has served since 2008 and currently serves as both the Secretary and Treasurer, Defendant Trunzo has served since 2011 and is the immediate past Treasurer, and Defendant Johanna Jaspersohn has served on the board since 2014.<sup>1</sup> Defendant Raymona Russell has been the Executive Director since 1996 and is currently the only full-time staff member of Emerge.

The affidavit of Michael T. Powers, Investigator, Office of the Attorney General ("Powers Affidavit"), provides evidence of the following facts which support removal of the Board and suspension of the activities of Emerge until further order of the Court. *See* Powers Affidavit (attached as Exhibit 1).

For the last several years, the Board has violated its statutory duties of good faith, care, and loyalty to Emerge by:

- (1) failing to require that the Executive Director provide the Board and Treasurer regular access to Emerge's financial records or bank statements;
- (2) approving of the Executive Director giving Emerge equipment to her family members for their exclusive use unrelated to Emerge's charitable mission;
- (3) not developing or approving an annual budget for at least the past two years;
- (4) not ever commissioning a full and independent audit despite receiving over 90% of its funding from public sources requiring an audit;

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<sup>1</sup> The Attorney General recognizes that Defendant Jaspersohn's limited time on the Board makes her potentially less responsible for the failing governance of Emerge and thus may not have violated her statutory duties to the same degree as other Board members. Nonetheless, The Attorney General seeks removal of the entire Board given the long-standing and deeply held animosity among board members and the Executive Director.

- (5) not employing a bookkeeper or other individual to regularly and directly manage its accounts since 2011, and relying exclusively on the Executive Director who has no knowledge of bookkeeping or accounting to manage all financial affairs;
- (6) failing to act as an independent Board and removing board members who raise concerns about the lack of meaningful Board oversight of the Executive Director and of the financial management of Emerge; and
- (7) censuring dissenting Board members.

Powers Affidavit ¶ 3.

In addition, the Board has exercised virtually no oversight of the expenditure of charitable funds by the Executive Director, and thereby has permitted the Executive Director to spend funds without any specific Board approval and contrary to the organization's bylaws. As a result, the Executive Director has:

- (1) annually paid herself, in 2011 and 2012, between \$5000 and \$10000 more than her board-approved salary;
- (2) written and authorized her own paychecks, paying herself on an irregular and inconsistent basis, including paying herself several times during the same two-week pay period, paying herself weeks or months in advance of a pay period, and paying herself multiple times for the same pay period;
- (3) obtained two separate loans from Emerge totaling \$5000 for which the Board had no record of either authorizing or demonstrating repayment of the loans;
- (4) paid herself reimbursement checks in advance of incurring any expense and/or in excess of the amount listed on her expense reports, once paying herself more than \$1000 beyond the documented expenses.

Powers Affidavit ¶ 4.

The past major sources of funding for Emerge are currently not available to the organization largely due to the issues raised in the Petition. On July 1, 2014, the Vermont Center for Crime Victim Services wrote Emerge that it would not continue funding until the Vermont Attorney General's Office concluded its investigation, Emerge obtained a thorough and independent audit of its accounts, and the Board increased its financial oversight. Powers Affidavit ¶ 5. To date the Center has not approved any additional funding for Emerge. On September 30, 2014, all grants of federal dollars to Emerge from the New Hampshire Department of Justice were completed and Emerge was notified that no further funding would be available until a full on-site programmatic and financial review is completed and the U.S. Department of Justice Office on Violence Against Women approves further funding. Powers Affidavit ¶ 6. To date the New Hampshire DOJ has not scheduled this review.

### III. LEGAL STANDARDS

Rule 65 of the Vermont Rules of Civil Procedure provides for injunctive relief. It governs temporary restraining orders ("TROs"), V.R.C.P. 65(a), and preliminary injunctions, V.R.C.P. 65(b). Typically, TROs are sought ex parte for immediate relief and are followed by a prompt preliminary injunction hearing. In this case, the Attorney General does not seek ex parte relief, but instead seeks immediate relief because the State, the public and third parties will suffer immediate and irreparable harm if the relief is not granted. See V.R.C.P. 65(a); *Vermont Div. of State Bldgs. v. Castleton Bd. Of Adjustment*, 138 Vt. 250, 256-57 (1980) (explaining that restraining orders are appropriate to avoid immediate "irreparable injury").

To obtain a Rule 65 TRO, the applicant must demonstrate “that immediate and irreparable injury, loss, or damage” will occur absent the TRO. V.R.C.P. 65(a). Similarly, in considering whether to issue a preliminary injunction a court must weigh “(1) the threat of irreparable harm to the movant; (2) the potential harm to the other parties; (3) the likelihood of success on the merits; and (4) the public interest.” *In re J.G.*, 160 Vt. 250, 255 n.2, *opinion after grant of appeal*, 161 Vt. 563 (1993) *citing* *U.S. v. A. W.J.*, 639 F. Supp. 1558, 1559 (D. Minn. 1986).

Under 11B V.S.A. § 8.10(a)(1), the superior court may remove any director of a public benefit corporation such as Emerge, if the court finds that:

- (A) the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, that the provisions of section 8.13 of this title have been violated, or a final judgment has been entered finding that the director has violated a duty set forth in sections 8.30 through 8.33 of this title; and
- (B) removal is in the best interest of the corporation.

Finally, the Attorney General has a duty to protect charitable assets and ensure that they are expended for the charitable purpose for which they were granted. 14A V.S.A. § 405 (granting Attorney General authority to enforce charitable trusts). This duty extends to ensuring that charitable assets are used for their public purpose and are not wasted or misused. *See Middlebury Coll.*, 101 Vt. at 343 (highlighting that Attorney General is proper party to “defend the rights of the public” inherent in a charitable trust).

### III. THE FACTS SUPPORT AND NECESSITATE A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IN THIS CASE

The Court should grant a TRO or preliminary injunction because without an order removing the Board of Emerge and suspending Emerge’s activities the limited remaining funding available to provide supervised visitation services in the Upper Valley will disappear



and the steps necessary to determine how these services should be provided going forward will be deferred, to the potential detriment of families in need of these services.

Taking the factors considered in issuing a TRO and preliminary injunction in turn, first, as to the threat of irreparable harm, the State of Vermont, along with the State of New Hampshire, provide the vast majority of funding for Emerge to provide essential court-ordered supervised visitations and supervised exchanges of children between parents. Because both states have withdrawn funding and refused future funding until the finances of Emerge can be determined and an evaluation of its program can be conducted, no money will come to the Upper Valley to provide those services in the near future. This immediate reality jeopardizes the availability of supervised visitation or exchange for families needing such support.

Additionally, the current Board has repeatedly failed to provide the meaningful financial oversight necessary to protect Emerge's charitable assets, and the current turmoil surrounding the Board further hinders its ability to properly function or obtain additional funding to support Emerge's mission. This state of affairs endangers Emerge's remaining assets and directly impedes its charitable purpose. The direct harm to the public and a depletion of Emerge's charitable assets is irreparable, therefore, because Emerge has no present ability to replenish funding and, without an immediate evaluation of Emerge's ability to provide services in the longer term, including potentially restructuring its Board to exercise greater control and oversight over Emerge's fiscal operations, the families needing supervised visitation and exchanges for their children will endure a longer period of instability or lack of services than if a TRO or Preliminary Injunction is issued. And the charitable assets, once spent, will be near impossible to recover.

Second, the potential of harm to other parties, namely Emerge, its Board and Executive Director, if the Court grants the requested TRO or preliminary injunction would be minimal. Because removal of the Board is in the best interests of Emerge and its charitable mission, the most important party – the charity itself – would be served through issuance of an injunction. The current state of the Board has left Emerge without future funding, spending down its charitable assets, and in a severely dysfunctional state vis-à-vis its Board. And though the Board members, themselves, face a finding that Emerge's best interests are served when the they are removed from their present positions, any harm from such a finding or order removing them is minimal in light of the harm currently being done to Emerge.

The Attorney General submits that an order removing the Board is appropriate here because the Board members have abdicated their responsibilities to adopt a budget, failed to appoint a person with adequate skills to provide bookkeeping and other financial services for the organization, failed to obtain an audit even though the vast majority of Vermont and New Hampshire funding for Emerge's services is dependent on annual audits, actively avoided the creation or development of an independent board of directors, and failed to oversee or curb the actions of the Executive Director such that she has been able to pay herself more than the salary provided by the Board and to reimburse herself more than the expenses she incurred.

The harm to the Executive Director should the Court enter a TRO or Preliminary Injunction as requested will be that for a limited period of time, she cannot receive compensation for providing visitation and exchange services and cannot provide those services, nor will she be required to perform services outside those directed by the Special Trustee. This is minimal harm. Given that there is evidence that the Executive Director has been overcompensated in the past both for both payroll and reimbursements, a temporary halt to that

compensation cannot be considered irreparable or even overly burdensome. Moreover, the appointment of a special trustee will provide precisely the independent oversight of the Executive Director that the Board should have provided all along. This is no hardship. With regard to the temporary cessation of services, the harm, if any, is to the families who would utilize visitation and exchange services. And again, the potential for a longer delay in services is apparent if Emerge continues on its current course.

Furthermore, if, as requested, the Court appoints Sara Kobylenski, Executive Director of Upper Valley Haven, to coordinate with a group of local nonprofit organizations to create an emergency interim resource for the provision of essential court-ordered supervised visitation and supervised exchanges of children between parents, only those parents who do *not* have an emergency need for visitation or exchange services will be deprived of those services, again for a limited period of time, and all families will be able to obtain those services from a financially stable organization more quickly than if the TRO or preliminary injunction is denied.

Third, the Attorney General submits that given all the facts set out in this Memorandum and in the Affidavit of Michael T. Powers, and the lack of evidence to date that Emerge has been able to provide to counter those facts; the Court should conclude that the Attorney General is likely to succeed on the merits of his claim. And, fourth, it is without question that it is in the public interest to grant the Attorney General's motion and issue the requested Order.

The Attorney General submits that under these circumstances, the harm to the public by not addressing the abuses that have long gone unchecked at Emerge outweigh the harm to the individual Defendants should the Court issue a TRO or preliminary injunction, especially given the proposed structure for providing necessary support services to Upper Valley families and ensuring the protection of Emerge's charitable assets.

#### IV. CONCLUSION

Based on the foregoing, the Attorney General requests that the Court enter an Order pursuant to Rule 65 of the Vermont Rules of Civil Procedure containing the terms set out above in the Motion for a Temporary Restraining Order and/or Preliminary Injunction.

DATED at Montpelier, Vermont this 7th day of October, 2014.

Respectfully submitted,

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

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SECRETARY, THOMAS TRUNZO, BOARD )  
MEMBER, JOHANNA JASPERSON, )  
BOARD MEMBER, and RAYMONA RUSSELL, )  
EXECUTIVE DIRECTOR )  
Defendants. )

**AFFIDAVIT OF MICHAEL T. POWERS**

1. My name is Michael T. Powers, and I am an investigator in the Public Protection Division of the Vermont Office of the Attorney General.
2. As the result of a report made to the Attorney General's Office stating concerns with the financial operation of Emerge Family Advocates, Inc. ["Emerge"], the Public Protection Division began an investigation that included an analysis of financial records and other documents provided by Emerge.
3. My investigation of the actions of the Board of Directors of Emerge revealed information that included, but was not limited to, the following.
  - (a) Discussions with the Board showed that it failed to require that the Executive Director provide the Board and Treasurer access to Emerge's financial records or bank statements.

- (b) Upon information and belief, the Board approved of the Executive Director giving Emerge equipment to her family members for their exclusive use unrelated to Emerge's charitable mission;
- (c) Emerge provided no documentation showing it had developed or approved an annual budget for at least the past two years.
- (d) The Board provided no evidence to show it had ever commissioned a full and independent audit despite receiving over 90% of its funding from public sources requiring an audit;
- (e) Upon information and belief, the Board did not employ a bookkeeper or other individual to regularly and directly manage its accounts since 2011, and relies exclusively on the Executive Director who has no knowledge of bookkeeping or accounting to manage all financial affairs.
- (f) Emerge's bylaws limit removing a board member "for cause." [Attachment 1] Nevertheless, the Board has removed two recent board members, including Defendant Jaspersohn, because of alleged technical violations of Emerge's bylaws. In one instance a former Board treasurer was removed because she had allegedly reached the limit of her term; however, the bylaws in effect did not include any term limits and both Defendants Verdine and Farrington remained on the Board despite serving longer terms. [Attachment 2] Similarly, Defendant Jaspersohn, though she been elected to the Board only a few months earlier, was removed because two of four members of the Board, a majority of those present at that particular Board meeting, determined that the bylaw's requirement of "an uneven number of [board] members" necessitated her immediate removal rather

than the election of an additional member or a temporary exception to the bylaw.

[Attachment 3]

- (g) The Board also has a practice of censuring dissenting members. After he made a public complaint about the Board's lack of financial oversight, two Board members, a majority of the three person Board, publicly censured then-Treasurer Defendant Trunzo and removed him from the office of Treasurer, appointing Defendant Farrington to that role.

[Attachment 4]

4. My investigation of the financial operations of Emerge revealed information that includes, but is not limited to, the following:
- (a) The Board acknowledges it voted Executive Director Raymona Russell an annual salary of \$65,000.00 in 2011. However, the IRS Forms 990 that Emerge filed showed that she paid herself \$75,000.00 in 2011, and \$72,500.00 in 2012.
  - (b) Executive Director Russell often paid herself her wages on an irregular and inconsistent basis, including:
    - i. paying herself the full amount of her bi-weekly salary, several times during the same two-week pay period, such as July 12, 19, and 20, 2012; and twice on October 11, 2012;
    - ii. paying herself the full amount of her salary weeks or months in advance of a pay period, such as a July 2, 2012 payroll check covering the pay period of August 5 to 18, 2012, and a September 26, 2012 payroll check covering the pay period of November 11 to 24, 2012; and

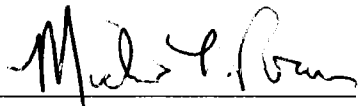
iii. paying herself multiple times for the same pay period, such as issuing herself payroll checks for the full amount of her salary on October 11 and October 16, 2012, both listed for the pay period of December 9 to December 22, 2012.

(c) In 2011 and 2012, the Executive Director obtained two separate loans for \$2500 which Emerge reported in its IRS Forms 990. Emerge produced no record showing that the Board of Directors authorized either of the loans.

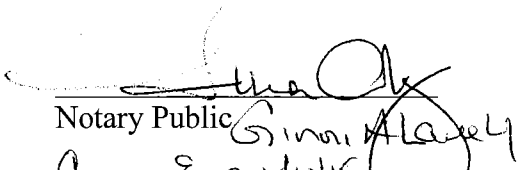
(d) On several occasions the Executive Director wrote herself a reimbursement check – at times in advance of incurring any expense – in excess of the amount listed on her expense reports. For example, she wrote herself three checks on July 20, July 27, and August 16 totaling \$4,500.00 for expenses related to attending and upcoming conference. Her list of actual expenses for the conference totaled \$3,494.50. The Board produced no record showing that the Executive Director repaid the amount of the advance not expended.

5. In the past three months, the Vermont Center for Crime Victim Services has indicated that it will not continue funding Emerge until the Vermont Attorney General's Office concludes its investigation into Emerge, Emerge obtains a thorough and independent audit of its accounts, and the Board increases its financial oversight. [Attachment 5]
6. The New Hampshire Department of Justice's Office on Violence Against Women will not continue funding Emerge until a full on-site programmatic and financial review is completed. [Attachment 6]
7. Through the course of the investigation, I have learned that the United States Department of Justice is also considering investigating Emerge over the use of grant funds funneled through New Hampshire's Department of Justice to Emerge.



  
Michael T. Powers

Subscribed and sworn to before me at Montpelier, Vermont, this 7<sup>th</sup> day of October, 2014.

  
Notary Public Simon Alamy  
Comm Exp 01/15/15

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# **ATTACHMENT 1**

# **By-Laws of Emerge Family Advocates, Inc.**

## **ARTICLE I NAME AND LOCATION**

### **Sec. 1 Name**

The name of the corporation is Emerge Family Advocates, Inc. (hereinafter referred to as the "corporation").

### **Sec. 2 Location**

The registered office of the corporation shall be located at Emerge Family Advocates, Inc. 2160 North Hartland Road, White River Junction, Vermont 05001, or any such address that is determined by the Board of Directors.

## **ARTICLE II PURPOSES**

### **Sec. 1 Mission Statement**

Emerge Family Advocates seeks to help families function in a healthy manner, primarily by providing the safe and neutral settings and services that help children exercise their right to the best possible relationship with each parent.

### **Sec. 2 Corporate Objectives**

To ensure the corporate mission, the corporation's objectives are as follows:

- a. To directly promote the safety and emotional well being of our community's children.
- b. To foster networking with other professionals, organizations, and agencies to deliver the highest quality service possible.

The corporation is organized exclusively for charitable, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or as may be amended.

The purpose of the corporation is to enable children to spend time with their non-residential parent(s) and other family members in a safe and nurturing environment.

The corporation will provide education on family issues and parenting skills, and will provide referrals for mediation, and other child and family services.

### **Sec. 3**

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to the corporation's members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered, and to make payments and distributions in furtherance of the purposes set forth above.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise trying to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distributions of statements) any political campaign on behalf of, or in opposition to any candidate for public office.

Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempted from federal income tax under section 501(c) (3) of the Internal Revenue Code, or the corresponding section of any federal tax code, or (b) by a corporation, contributions to which are deductible under section 170 (c) (2) of the Internal Revenue Code, or the corresponding section of any future tax code.

***Sec. 4***

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose, any such assets not so disposed of shall be disposed of by a court of Competent Jurisdiction of the country in which the principal office of the corporation is then located, exclusively for such purposes or to such (s), as the said court shall determine, which are organized and operated exclusively for such purposes.

**ARTICLE III**  
**FISCAL YEAR**

***Sec. 1 Fiscal Year***

The fiscal year of this corporation shall begin on the first day of January in each year, and end on the last day of December in each year.

**ARTICLE IV**  
**BOARD OF DIRECTORS**

***Sec. 1 Number and Term of Office***

The business and affairs of the corporation shall be overseen by a Board of at least three (3) and not more than nine (9) members.

The Board shall consist of an uneven number of members.

Each Board member, except one appointed to fill a vacancy, shall be elected to serve for a three year term.

Board members shall be elected by an affirmative vote of a majority of the currently serving Board members.

Upon adoption of these by-laws, all current and future Board members shall be assigned terms, so that the corporation will not have more than three Board members terms ending on the same year.

**Sec. 2 Ex-Officio Board Member**

Ex-Officio members may be elected by a majority of the Board of directors at the annual meeting for a one-year term. This member shall not have voting rights, but will be welcome to attend Board meetings, and provide input.

**Sec. 3 Compensation**

Board Members may be reimbursed for mileage and expenses incurred in carrying out the Corporations' business, consistent with the rules and regulations of the United States Internal Revenue Service.

**Sec. 4 Vacancies**

Vacancies on the Board of Directors shall be filled by an affirmative vote of the majority of the remaining Board members. The appointed member shall serve until the next annual meeting, when a vote will take place to fulfill the vacant term.

Board members, by an affirmative majority vote, may request the resignation for cause, of any Board member(s).

Board members shall seek candidates who will provide insight, and further the Corporation's mission and goals.

**Sec. 5 Mission of the Board of Directors**

It shall be the mission of the Board of Directors to:

- a. Recruit, hire and manage appropriate executive management.
- b. Establish and foster positive relations with the Corporations' community.
- c. Elect individuals who have shown a high degree of commitment to the Corporate mission.
- d. Provide guidance to the program to ensure that it adheres to the Corporate mission.
- e. Encourage and promote education regarding the Corporation's mission.
- f. Serve as a resource for identification of needs and resources in the community.
- g. Support fundraising for the Corporation.

**Sec. 6 Duties**

Without in any way restricting the powers of the Board of Directors, it shall have the following specific powers and duties:

- a. Develop and carry out the purposes of the Corporation as set forth in Article II of these by-laws.
- b. Exercise authority over the administration of the Corporation and administer its affairs.
- c. Supervise the finances of the Corporation.
- d. Adopt budgets, and authorize the treasurer to supervise the collection and disbursement of funds in conformity with the budget.
- e. Oversee auditing of corporate books.
- f. Determine guidelines for cooperation between the Corporation and other appropriate organizations.
- g. The board members shall review and ensure the Corporation's continuing compliance with all relevant federal, state, and local laws and regulations.

## **ATTACHMENT 2**

LAW OFFICE OF  
NANCY S. TIERNEY

September 23, 2014

Judy Rex, Executive Director  
Vermont Center for Crime Victim Services  
58 South Main Street, Suite One  
Waterbury, Vermont 05676-1599

RE: Emerge Family Advocates

Dear Ms Rex:

I am an attorney practicing in New Hampshire and Vermont. From approximately 2005 - 2011, I was a member of the Board of Directors of Emerge Family Advocates. In the fall-early winter of 2011, I was forced off the Board which claimed, at the urging of Executive Director, Mona Russell, a provision of the bylaws had been enacted limiting the terms of board members. Recently, however, I learned that provision had not in fact been enacted and I had been illegally removed from the Board.

I believe, as I have always believed, Emerge serves a valuable function in our community. Since 2011, I have had several clients use the services of Emerge. I was surprised, therefore, to receive the attached item filed by Ms. Russell indicating Emerge would not serve any of my clients due to a "conflict of interest" of which I "was aware." This was the first notification I ever received indicating Emerge was refusing to service clients in its service area in addition, I am no more aware today as I was in the fall/early winter of 2011 of what issue Ms. Russell has with me. I have verified, however, it is not a feeling shared by all Board members with whom I have served or all Board members who have served Emerge since 2011. For this reason, I can only conclude this is a personal issue Ms. Russell has and not an organizational issue.

Since Emerge receives funding from the State of Vermont, I do not believe Ms. Russell has the authority to refuse services to clients in Emerge's service area, referred by the Court, simply because I am their attorney or Guardian ad Litem. I would appreciate your assistance in clarifying and resolving this matter.

Respectfully yours,

  
Nancy S. Tierney

cc: Office of the Vermont Attorney General

## **ATTACHMENT 3**



# D - r - a - f - t

## Emerge Family Advocates

Board of Directors Meeting  
Lesle Road  
White River Junction, VT  
June 23, 2014

**Present:** President Joseph Verdine, Secretary Muriel Farrington, Executive Director Mona Russell, and Honorary Director Bill Boardman.

**Absent:** Treasurer Tom Trunzo and Director Joanna Jasperson. Neither person let us know they would not be in attendance.

The meeting was scheduled for 5:00 p.m. At 5:30 we still did not have a quorum, so the meeting was begun informally.

**Secretary's Report:** Mona responded to Tom's comment at the last meeting about the Confidentiality Policy. She stated that we have used this form since 2005, and we've had everyone coming into Emerge sign this form. Clients have a separate confidentiality form. The intent of the form is to cover not only paperwork but what a person might overhear.

**Clarification Safe Havens Grant Termination Date:** Tom had stated at the April meeting that the Safe Havens Program would run out the end of September 2014. Mona clarified that this program is not over, but it has been replaced with one that is called Justice for Families which is still being run by the Federal Department of Justice; this program runs 10/1/2014 – 9/30/2016. Mona pointed out that our February 17, 2014 minutes referred erroneously to this program as Safe Havens NH; this will need to be corrected.

**Whistle Blower Policies:** Mona showed us that we have such a document in place, in our Policies and Procedures located under Complaints. Additionally, our Employee Whistle Blower Policy was put in place in 2010.

**Discussion of By Laws:** The By Laws (currently in force adopted July 16, 2009) Article 4 Section 1 states, in part, *the Board shall consist of an uneven number of Members*, and our Board does not; we are not in conformance with our own By Laws. In fact, the current Board consists of only three duly elected Board Members in conformance with the By Laws. The 2014 Board Member election was a violation of the By Laws and is void. The current Board consists of Joseph Verdine, Muriel Farrington, and Thomas Trunzo. Given that reality, the Board Members in attendance realized they constituted a quorum of the legitimate Board consisting of three members conforming to the By Laws.

Joe called the meeting to order at 6:40.

**Present:** President Joseph Verdine, Secretary Muriel Farrington, Executive Director Mona Russell, and Honorary Director Bill Boardman.

**Absent:** Treasurer Tom Trunzo.

**Board Housekeeping:** This was deferred until the next meeting.

### Secretary's Report – Muriel Farrington

Joe moved we approve the April 21 Minutes incorporating the changes brought up by Mona in our informal discussion. Muriel seconded. During discussion of the minutes, we agreed to make Mona's responses to Tom's recorded comment at the last meeting a part of today's minutes:

**Confidentiality Policy:** Mona stated that we have used this form since 2005, and we've had everyone coming into Emerge sign this form. Clients have a separate confidentiality form. The intent of the form is to cover not only paperwork but what a person might overhear.

**Clarification Safe Havens Grant Termination Date:** Tom had stated at the April meeting that the Safe Havens Program would run out the end of September 2014. Mona clarified that this program is not over, but it has been replaced with one that is called Justice for Families which is still being run by the Federal Department of Justice; this program runs 10/1/2014 – 9/30/2016. Mona pointed out that our February 17, 2014 minutes referred erroneously to this program as Safe Havens NH; this will need to be corrected.

**Whistle Blower Policies:** Mona showed us that we have such a document in place, in our Policies and Procedures located under Complaints. Additionally, our Employee Whistle Blower Policy was put in place in 2010.

There being no more discussion, all voted in favor, and the minutes were approved.

**Executive Director's Report – Mona Russell**

Mona provided us with copies of the P&L and Balance Sheet for 2014 YTD as well as comparisons to last year, along with a 2014 A/P Aging Summary; she then updated us on the status of incoming money expected in the next 1-3 weeks which should cover our Aged Accounts Payable.

**Statistics:** For 2014 to June 23, Emerge is operating three sites providing services for 72 families; these services resulted in 542 visits, averaging 90 visits per month or 22.5 per week. During this typically heavy record-keeping period, Mona has had to manage Emerge basically by herself.

Due to time constraints, Joe moved we table the remainder of the agenda until the next meeting date. This meeting has tentatively been scheduled for July 21 at 5 pm at Emerge.

Joe moved the meeting be adjourned, Muriel seconded it, and the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Muriel Farrington, Secretary

## **ATTACHMENT 4**

**D-R-A-F-T**  
**Emerge Family Advocates**  
**Board of Directors Meeting**  
 August 18, 2014

**Present:** President Joe Verdine, Secretary Muriel Farrington, Honorary Board Member Bill Boardman.

**Absent:** Treasurer, Tom Trunzo (later present).

**Call to Order:** The meeting was called to order at 5:00 p.m. by President Joe Verdine. He stated this is an executive session.

Joe verified that everyone present has signed the Visitor Confidentiality Form.

**Secretary's Report – Muriel Farrington**

Joe moved that we approve the minutes of the June 23 meeting as presented. Muriel seconded. All present voted in favor of acceptance, and the minutes stand as read.

**Executive Director's Report – Mona Russell**

Mona handed out the following reports: P&L, Balance Sheet and A/P Aging Summary. The Executive Director's Report has been tabled until tomorrow and will be sent to the Secretary for further distribution.

**Discussion and preliminary response to AG letter**

Joe moved that we censure Thomas Trunzo for unauthorized, unapproved and malicious activity with the intent and/or effect of causing harm to the organization and director. He further moved that Thomas Trunzo has no authority to speak on Emerge's behalf.

*At this point Thomas Trunzo joined the meeting. He was asked for his signed Confidentiality Form, and he placed it on the table in front of him. He stated after the meeting that he had included caveats on that document.*

Muriel seconded the motion. Since Mr. Trunzo was being censured, he had no vote. Joe and Muriel voted in favor of censure. The motion passed on a 2-0 vote.

Under the bylaws article 5, section 12, Delegation of Duties. Joe moved to temporarily delegate the duties of Treasurer to Muriel Farrington. Muriel seconded the motion. Tom objected to the procedure. All in favor: Muriel and Joe voted aye; Tom voted nay. The motion carried.

Tom stated that he disagrees that the minutes could be approved as he felt there was no quorum at the prior meeting. Request denied as two out of three members were present. Joe reiterated the board's position that the election of Joanna Jaspersohn had been invalid and that she had never been a legitimately qualified board member. Muriel agreed.

**Resolved:** Emerge Family Advocates checks will require two signatures, including one officer, effective immediately.

Muriel made the motion, and Joe seconded.

**Discussion:** Tom opposes the motion because it is incomplete – he feels it needs to be developed more. Muriel added that we can improve it if needed at a later date.

**Vote:** Muriel and Joe voted aye, and Tom opposed. The motion carried.

**Resolved:** That the Executive Director provide the Board with P&L and Balance Sheets by the 10<sup>th</sup> of each month. Muriel made the motion, and Joe seconded. Joe and Muriel voted aye; Tom opposed. The motion carried.

- Muriel to send copies of draft response to the AG's letter.
- Tom to provide current and former employee responses in time for the next meeting.
- Muriel to send update proposed By-Law changes around.
- Mona to submit billing to Judy Rex for as much as she can. She has been waiting for an answer from Judy to a previously submitted question before billing can be completed.

The Board considered its letter to the Vermont AG. Muriel read the letter aloud asking for input on her draft responses. The Board understood the minutes would go out with the response. She will send a final copy around to see if there is other Board input prior to responding.

**ED Employment Contract** – Early last spring, Tom and Joanna Jaspersohn sent out letters to former and current Emerge employees. We have not seen the responses, and they are required before we can make further progress. Tom agreed to try to provide those responses as he doesn't have those responses with him. Tom said Joanna has the information; Tom will gather whatever information she may have for responses. This is to be done and ready for the next meeting. There was some discussion as to how Joanna obtained the names and addresses of former employees, etc.

**By-Law Revisions:** The Board went over current changes in the 2012 Emerge ByLaws; they were not previously approved. Muriel will send them out to the Board for further input.

Article 4, Section 2 Ex-officio Board Member: Joe asked that we strike *for a one-year term* and add *ex-officio members shall remain members unless removed for cause*. Muriel will include this in the copy sent to the Board.

Tom asked about Matt Friedman whom he hasn't seen around, asking if Matt still lives here; he wondered why Matt and Dick McCormack would still be called ex-officio. Joe explained that the ex-officio is an honorary position given to founders and members who have significantly contributed to the organization.

**Old Business:** Tom suggested Muriel put old business items in the "blue box" for easier tracking. She agreed.

**New Business:** None.

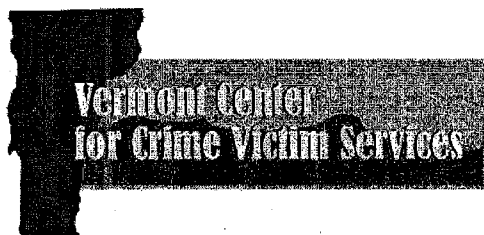
**Next meeting:** Tentatively scheduled for Monday October 13<sup>th</sup>. Tom asked why not in September. Joe and Muriel both are unavailable in the last half of September. If one is needed before October, we'll try to meet in early September.

There being no further business, Muriel moved the meeting be adjourned, Joe seconded, all voted in favor. The meeting was adjourned at 6:03 p.m.

Respectfully submitted,

Muriel Farrington  
Secretary

## **ATTACHMENT 5**



Victims Compensation Program  
Vermont Victim Assistance Academy  
Victim Assistance Program

[www.ccvs.state.vt.us](http://www.ccvs.state.vt.us)

Joe Verdine, Board President  
Emerge Family Associates  
9 Depot Street  
Enfield, NH 03748

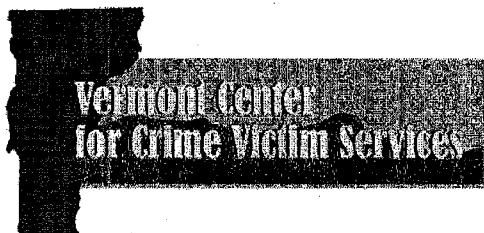
July 1, 2014

Dear Mr. Verdine,

This letter serves to notify the board of Emerge Family Advocates, Inc. that further funding from the Vermont Center for Crime Victim Services has been suspended. This decision is the result of numerous concerns regarding this Supervised Visitation Program that have been brought to our attention. Therefore, Emerge will not be receiving the Supervised Visitation Grant from our agency as they did last year for \$46,022. Our concerns include;

- **Lack of Audit** We have requested an audit on numerous occasions from your executive director, Mona Russell for over a year now. It is essential that our sub-grantees verify their financial integrity through the audits we require. Promises for said audit have been made, but no audit has materialized. The latest communication with Ms. Russell indicates that Wallace Tapia will "finish the 2012" audit, but that A. Anthony Grizzaffi, C.P.A. has been retained to do the audit for 2013, and review for 2014. It may be noted that the timing of the change in auditors "midstream" is of some concern to us.
  - Unease surrounding Emerge's fiduciary integrity was echoed in the letter dated 4/21/2014, by your treasurer Thomas H. Trunzo. In it he stated that Ms. Russell has "failed and refused to provide the Board of Directors of Emerge with financial information and open access to the organization's bank accounts for at least five years."
- **Complaints from Clients** We have received confidential complaints from clients that allege that your director has intimidated them, crossed interpersonal/ professional boundaries, and breached confidentiality. The characterization of bullying behavior was seen again in your treasurer's letter of 4/21/2014 in his description of Ms. Russell's interaction with certain board members.
- **Complaints from Programs** Other victim service providers in your area are reluctant to recommend or refer clients to Emerge because of the alleged unnecessary stresses associated with interacting with Emerge.

58 South Main Street, Suite One, Waterbury, Vermont 05676-1599  
(802) 241-1250 / (800) 750-1213 (VT only) / (800) 845-4874 (TTY VT only)  
(802) 241-4337 (General fax) / (802) 241-1253 (Victims Compensation fax)



Victims Compensation Program  
Vermont Victim Assistance Academy  
Victim Assistance Program

[www.ccvv.state.vt.us](http://www.ccvv.state.vt.us)

- **Conflict of Interest in Hiring Practice** It is our understanding that this state and federally funded program is being run like a family business as Ms. Russell has hired her daughter and grandson as employees.
- **Unprofessional Conduct on the Part of the Executive Director to the Staff off VCCVS**  
The Vermont Center for Crime Victim Services has received emails from Ms. Russell that, in our opinion, are unnecessarily rude and tangential.

It is unfortunate that the situation has been driven to this point. We are deeply committed to the important work that our Supervised Visitation Programs perform. They are an essential building block in our systems' response to victims of crime. Therefore, it is absolutely mandatory that these programs execute proper stewardship of grant funding, as well as professional and victim sensitive service delivery.

Sincerely,

Judy Rex  
Executive Director  
Vermont Center for Crime Victim Services

Cc: Muriel Farrington, Emerge Board Member  
Joanna Jaspersohn, Emerge Board Member  
Thomas Trunzo, Jr., PA Treasurer Emerge Board  
Mona Russell, Executive Director Emerge  
Michael Powers, Esq. Asst. Attorney General Vermont

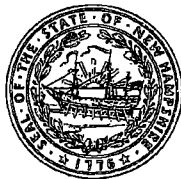


## **ATTACHMENT 6**

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

VIA-EMAIL & US Mail

October 1, 2014

Raymona Russell, Executive Director  
Emerge Family Advocates  
Post Office Box 1224  
White River Jct., Vermont 05001

Re: Programmatic and Financial On-Site Review of Emerge

Dear Director Russell:

This letter shall serve as notice that the NH Department of Justice will be conducting a full on-site programmatic and financial review of Emerge Family Advocates within the next 30 day. I will contact you soon to establish a date that works best for both parties and that provides you the necessary time to assemble the requested documentation. The reason for this review is that the NHDOJ has received numerous allegations of wrongdoing at Emerge brought forth by a variety of concerned parties which will need resolution and it is our responsibility to ensure that federal funds are expended properly.

While an effort was made to allow the Vermont Attorney General's Office review to conclude before starting ours, that delay is no longer possible. The NH Department of Justice has recently received funding under the 2014 Justice for Families grant, from the Office on Violence Against Women, of which Emerge is an applicant, and those funds have been special conditioned to prevent this office from awarding any funding to Emerge until Emerge has undergone a successful on-site financial and programmatic review by this office. The Office on Violence Against Women will need to approve the outcome of that review before we are given authorization to subgrant any funding from the 2014 Justice for Families grant to Emerge.

The New Hampshire Department of Justice on-site programmatic and financial process will include a review of the following, but not exclusive, areas:

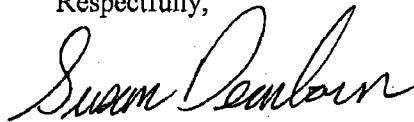
- A review of all expenditures submitted for reimbursement and the financial supporting documentation that accompanies those expenditure requests under the 2010 Safe Haven funding for the grant cycle of that funding which extends from October 1, 2010 through June 30, 2014.

- Please ensure that each expenditure report and all supporting documentation is organized, printed and available onsite, so that time is not expended gathering that information during the site visit.
- A review of all relevant general ledgers, banking statements, copies of executed checks, electronic transfers and other documents associated with any Safe Havens expenditures.
- A comprehensive programmatic review of visitation/exchange services provided by Emerge in accordance with the 2010 Safe Havens award and your compliance with all special conditions issued and agreed upon under that award.
- A review of Emerges' compliance with their organizations written by-laws.
- A review of Emerges' tax status as a 501(c)(3) entity, 2010 through 2013 IRS Form 990s, filing status in New Hampshire with Secretary of State or Charitable Trusts, fundraising activities in New Hampshire, victim confidentiality policies and procedures and hiring practices and procedures.
- Interviews with Emerges' Board of Directors and collaborative partners and current or former employees and/or clients may also be conducted.
- A review of Emerges' adherence to the OVW Guiding Principles and recognized best practices for providing supervised visitation, to include a walkthrough of the facility.
- A review of any and all financial and programmatic records that relate to the operation of Emerge in general and activities funded through pass through funding from the New Hampshire Department of Justice in particular, to include VOCA and State Victim Assistance funding.

All records pertaining to these requests must be on site, organized and available for review on the date of the scheduled review as well as being in a format conducive to that review process. Upon completion of this review any and all findings will be forwarded to the Office on Violence Against Women who will ultimately determine if Emerge is competent to remain a viable recipient of federal funding. Should you choose not to comply with this request; Emerge will be automatically ineligible for future funding through this office.

Thank you for your expected cooperation with this request.

Respectfully,



Susan H. Dearborn  
Grant Manager